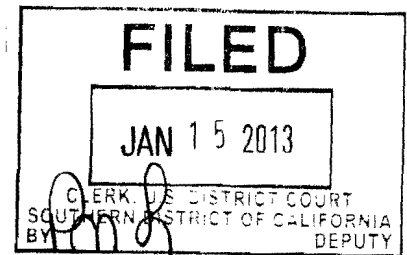


ORIGINAL



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOEL I. BERNSTEIN, M.D., INC.,

Defendant.

Criminal Case No.

13CB0119-CAB

INFORMATION

18 U.S.C. § 1347 - Health Care Fraud

18 U.S.C. § 2 - Aiding and Abetting

18 U.S.C. § 982(a)(7) - Forfeiture

The United States Attorney charges:

Introductory Allegations

1. At all times relevant herein, defendant JOEL I. BERNSTEIN, M.D., INC is a California corporation, incorporated in 1998, with an office in La Jolla, California. The defendant is in the business of providing medical care to oncology patients, including the administration of prescription oncology drugs in the office to patients insured by Medicare.

2. The U.S. Food and Drug Administration ("FDA") regulates pharmaceuticals in the United States to ensure that drugs are safely manufactured, made from appropriate ingredients and properly labeled. The FDA drug approval process addresses the chemical composition of the drug, the drug's safety and effectiveness, and the elements of the drug's distribution, such as the methods used in the manufacture, processing and packing of the drug, as well as the labeling to be used for the drug. Drugs manufactured outside the United States and not intended for use in the United States do not go through this approval process and are considered unapproved, and therefore cannot be deemed to be safe.

5           4.     Introductory allegations 1-3 of this Information are realleged and incorporated herein by  
6 reference.

6. As a part of the scheme and artifice to defraud, defendant JOEL I. BERNSTEIN, M.D., INC. purchased approximately \$3.4 million of prescription oncology drugs at substantial discounts, with knowledge that the drugs were not intended for use in the United States.

8           8.       On or about July 8, 2010, in San Diego, California, defendant JOEL I. BERNSTEIN,  
9 M.D., INC. knowingly and willfully executed the scheme to defraud by submitting a claim for payment  
0 to Medicare for \$12,000.00, falsely claiming the amount was for the administration of the U.S. FDA  
1 approved drug with the same active ingredient as Mabthera.

### Forfeiture Allegation

9. As a result of the commission of the felony offense alleged in Count 1, said violations being punishable by imprisonment for more than one year, and pursuant to Title 18, United States Code, Section 982(a)(7), defendant JOEL I. BERNSTEIN, M.D., INC. shall, upon conviction, forfeit to the United States all rights, title and interest in any and all property, real or personal, that constitutes or is

1 derived, directly or indirectly, from gross proceeds traceable to the commission of the offense, including,  
2 but not limited to: \$1,249,174.82 in United States currency, the gross proceeds received by the defendant  
3 for the submission of claims to Medicare related solely to unapproved drugs.

4 10. If any of the above-described forfeitable property, as a result of any act or omission of  
5 defendant JOEL I. BERNSTEIN, M.D., INC. -

6 (1) cannot be located upon the exercise of due diligence;

7 (2) has been transferred or sold to, or deposited with, a third person;

8 (3) has been placed beyond the jurisdiction of the Court;

9 (4) has been substantially diminished in value; or

10 (5) has been commingled with other property which cannot be subdivided without  
11 difficulty;

12 it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p) and  
13 Title 18, United States Code, Section 982(b), to seek forfeiture of any other property of the defendant  
14 up to the amounts alleged above as being subject to forfeiture.

15  
16 DATED: January 7<sup>th</sup>, 2013.

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19 LAURA E. DUFFY  
20 United States Attorney

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22 MELANIE K. PIERSON  
23 Assistant U.S. Attorney  
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